

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT COLUMBUS**

MELANIE A. OGLE,

Petitioner,

: Case No. 2:15-cv-776

- vs -

Chief Judge Edmund A. Sargus, Jr.  
Magistrate Judge Michael R. Merz

GARY C. MOHR, DIRECTOR,  
Ohio Department of Rehabilitation  
And Correction,

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Respondent.

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**DECISION AND ORDER DENYING RENEWED MOTION FOR  
STAY OF SENTENCE**

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This habeas corpus action is before the Court on Petitioner's Renewed Motion to Stay Remainder of Unlawful Sentencing Pending Resolution of Amended Petition for Writ of Habeas Corpus (ECF No. 25).

Petitioner previously moved to stay the remainder of her sentence (ECF No. 8). The Magistrate Judge denied that Motion (ECF No. 9) and Ms. Ogle's objections (ECF No. 11) are presently pending before Chief Judge Sargus.

Petitioner's Renewed Motion essentially restates her position that the order extending her community control sentence is plainly unlawful and she should therefore be released from its conditions pending a decision on the merits. As the law cited in the Magistrate Judge's Decision and Order of May 4, 2015, holds, granting release pending a merits decision on a habeas petition is rare and requires both a substantial claim of law and the existence of exceptional circumstances deserving special treatment in the interests of justice. *Aronson v. May*, 85 S.Ct. 3,

5, 13 L.Ed.2d 6, 9 (1964) (Douglas, J., in chambers). Despite Petitioner's belief that her claim is clear on the merits, the record she herself filed with her first amended petition is more than sixteen hundred pages long. Petitioner's own Motion to Expand the Record (ECF No. 20) was only filed a week ago and has not yet been responded to by the Warden, much less decided. Thus there is a complex record and a long history to understand in this case before the Court reaches the merits. The merits may be "clear" when the Court has finished, but they are not clear to the Court as yet.

On the other side of the scale is Petitioner's own interest in liberty. Even when a habeas petitioner is suffering from an extreme deprivation of liberty as in being confined in a state or federal penitentiary, release pending a decision on the merits is rare and unlikely to be without conditions. Ms. Ogle is not imprisoned. What she seeks in her Renewed Motion is release without conditions, the essential equivalent of an unconditional writ of habeas corpus before the Court has considered the merits. That relief is not merited on the showing made to date.

The Renewed Motion for Stay is DENIED.

August 1, 2015.

s/ *Michael R. Merz*  
United States Magistrate Judge